3 FAM 6120
FOREIGN SERVICE RETIREMENT—COVERAGE

(CT:PER-682; 09-27-2012)
(Office of Origin: HR/RET)

3 FAM 6121 PARTICIPANTS

3 FAM 6121.1 Participation in the Foreign Service Retirement and Disability System (FSRDS) and the Foreign Service Pension System (FSPS)

(CT:PER-682; 09-27-2012)
(Uniform State/USAID/BBG/Commerce/Foreign Service Corps-USDA)
(Applies to Foreign Service Employees)

Participation in the *Foreign Service Retirement and Disability System (*FSRDS*)* and the *Foreign Service Pension System (*FSPS*)* is limited to:

(1) Members of the Foreign Service serving under a career appointment or as a career candidate either in the Senior Foreign Service or assigned to a salary class in the Foreign Service schedule*, including any Foreign Service officer whose position or function was transferred to a non-Foreign Service affairs agency for reasons beyond his or her control*;

(2) Any individual not otherwise entitled to be a participant who has served as chief of mission or as an ambassador-at-large for an aggregate period of 20 years or more, exclusive of extra service credit at *an* unhealthful post, and who has paid into *the* Fund a special contribution for each year of service; and

(3) Any individual under any other appointment under the Foreign Service Act of 1946, as amended, who has paid, under *the* authority described below, into *the* Fund a special contribution for such service*.*

3 FAM 6121.2 Non-Career Appointments

(CT:PER-682; 09-27-2012)
(Uniform State/USAID/BBG/Commerce/Foreign Service Corps-USDA)
(Applies to Foreign Service Employees)

a. *Individuals* who have noncareer Foreign Service appointments are excluded from *the Foreign Service Retirement and Disability System (*FSRDS*)* and the *Foreign Service Pension System (*FSPS*)*, and participate in *the* Civil Service

Retirement System (CSRS), CSRS Offset, or Federal Employees Retirement System (FERS), as appropriate.

b. Where a noncareer Foreign Service appointment follows without a break in service from a Civil Service appointment, the Civil Service coverage in the preceding appointment (CSRS, CSRS Offset, or FERS) continues during the noncareer Foreign Service appointment. A break in service means a separation from employment of at least 3 calendar days.

3 FAM 6121.3 Service *with* American Institute for Taiwan (AIT)

(CT:PER-682; 09-27-2012)
(Uniform State/USAID/BBG/Commerce/Foreign Service Corps-USDA)
(Applies to Foreign Service Employees)

Participants who transfer directly from a career Foreign Service position to employment with *the American Institute in Taiwan (*AIT*)* may continue coverage under the FSRDS, FSRDS Offset, or FSPS during the employment with AIT provided participant contributions are received by the employing agency during, or within 3 months after the end of the pay period of the career Foreign Service position.

3 FAM 6121.4 Transfers to International Organizations

3 FAM 6121.4-1 Foreign Service Retirement and Disability System (FSRDS)

(CT:PER-682; 09-27-2012)
(Uniform State/USAID/BBG/Commerce/Foreign Service Corps-USDA)
(Applies to Foreign Service Employees)

FSRDS participants who transfer to a public international organization directly from a career Foreign Service position may continue coverage under the FSRDS or FSRDS Offset while on transfer to the public international organization pursuant to 5 U.S.C. 3582 provided applicable participant contributions are received by the employing agency before, during, or within 3 months after the end of the pay period of the career Foreign Service position.

3 FAM 6121.4-2 Foreign Service Pension System (FSPS)

3 FAM 6121.4-2(A) Participants Who Transfer After January 1, 1995

(CT:PER-682; 09-27-2012)
(Uniform State/USAID/BBG/Commerce/Foreign Service Corps-USDA)

(Applies to Foreign Service Employees)

Participants who transfer to a public international organization directly from a career Foreign Service position after January 1, 1995, can elect to continue Foreign Service Personnel System (FSPS) coverage (other than Thrift Savings Program (TSP) coverage) provided applicable participant contributions are received before, during, or within 3 months after the end of each applicable pay period of the career Foreign Service position.

3 FAM 6121.4-2(B) Participants Who Transfer Before January 1, 1995

(CT:PER-682; 09-27-2012)
(Uniform State/USAID/BBG/Commerce/Foreign Service Corps-USDA)
(Applies to Foreign Service Employees)

a. Participants who transfer to a public international organization directly from a career Foreign Service position before January 1, 1995, who previously were not permitted to continue Foreign Service Personnel System (FSPS) coverage can retroactively elect FSPS coverage. In order to obtain this coverage, the participant must make the necessary employee contribution deposit equal to the amount of deductions that would have been withheld from pay and the appropriate employing agency also must make the applicable agency contribution deposit.

b. Participants who transferred to public international organizations in the United States before January 1, 1995, were previously permitted to elect to continue their FSPS coverage. These participants may not retroactively elect such coverage.

3 FAM 6121.5 Leave Without Pay *(LWOP)* from the Foreign Service

(CT:PER-682; 09-27-2012)
(Uniform State/USAID/BBG/Commerce/Foreign Service Corps-USDA)
(Applies to Foreign Service Employees)

a. Individuals hired as part-time, temporary, or intermittent while on approved leave without pay from a career Foreign Service appointment may continue coverage under FSRDS or FSPS during such appointment.

b. Individuals who desire to continue such coverage must notify their bureau executive office within 30 days of the commencement of such appointment.

c. Individuals who do not elect to continue coverage under the FSRDS or FSPS *shall* be subject to mandatory *Social Security* coverage only.

d. A participant who is on approved *leave without pay (*LWOP*)* from a position under FSRDS, FSRDS Offset, or FSPS, is entitled to retirement service credit *as*

long as the LWOP does not exceed 6 months in a calendar year.

3 FAM 6121.6 Converted to Competitive Civil Service

(CT:PER-682; 09-27-2012)
(Uniform State/USAID/BBG/Commerce/Foreign Service Corps-USDA)
(Applies to Foreign Service Employees)

Any individual converted to the competitive Civil Service pursuant to *section 2106 of* the Foreign Service Act of 1980, as amended, and who elected to participate in the FSRDS remains a participant so long as the individual is employed in an agency authorized to utilize the Foreign Service personnel system. Any individual making such election remains subject to all the provisions governing FSRDS, including mandatory retirement *for age*.

3 FAM 6121.7 Appointment by the President

(CT:PER-682; 09-27-2012)
(Uniform State/USAID/BBG/Commerce/Foreign Service Corps-USDA)
(Applies to Foreign Service Employees)

Any individual who is a participant in the FSRDS or the FSPS and who is appointed by the President, whether with or without the consent of the Senate, to a position in any agency of the U.S. Government, any U.S. delegation or mission to any international organization, any international commission, or in any international body, does not by virtue of accepting such an appointment lose status as a participant in the FSRDS or the FSPS.

3 FAM 6122 FOREIGN SERVICE PENSION SYSTEM (FSPS) COVERAGE

3 FAM 6122.1 FSPS Coverage—General

(CT:PER-682; 09-27-2012)
(Uniform State/USAID/BBG/Commerce/Foreign Service Corps-USDA)
(Applies to Foreign Service Employees)

To be covered under FSPS, an individual must:

(1) Be an individual identified in section 803 of the Foreign Service Act of 1980;

(2) Be covered by *Social Security*; and

(3) Have retirement deductions withheld from pay and have agency contributions made to the Fund.

3 FAM 6122.2 Foreign Service Pension System (FSPS) Coverage—Exclusions

(CT:PER-682; 09-27-2012)
(Uniform State/USAID/BBG/Commerce/Foreign Service Corps-USDA)
(Applies to Foreign Service Employees)

The following individuals are excluded from *Foreign Service Pension System (*FSPS*)* coverage:

(1) An individual not covered by *Social Security*, including an individual covered by FSRDS; or

(2) A participant in FSRDS who was exempt from automatic FSPS coverage and who declined to elect FSPS coverage during any period in which an opportunity to make an election was available.

3 FAM 6123 MANDATORY SOCIAL SECURITY COVERAGE

(CT:PER-682; 09-27-2012)
(Uniform State/USAID/BBG/Commerce/Foreign Service Corps-USDA)
(Applies to Foreign Service Employees)

a. The following individuals are mandatorily subject to *Social Security* coverage effective January 1, 1984:

(1) An individual whose first Federal civilian position is effective on or after January 1, 1984;

(2) An individual whose Federal civilian career was interrupted by a break in Federal retirement coverage of *1* year or more after December 31, 1983; and

(3) Senior officials whose positions are listed or described in 5 U.S.C. 5312 through *5 U.S.C.* 5317.

b. The directors of *human resources* of the Departments and agencies authorized to utilize the Foreign Service retirement system are responsible for determining which positions in their Departments or agencies are subject to mandatory *Social Security* coverage.

c. Career employees appointed under 3 FAM 6123*, subparagraph* a(3*),* prior to November 10, 1988, could revert back to FSRDS coverage without *Social Security* after the appointment ended.

d. Career employees appointed under 6123*, subparagraph* a(3*),* on or after November 10, 1988, are mandatorily covered by *Social Security* for the remainder of their service with the Federal Government.

3 FAM 6124 *Automatic* Foreign Service Pension System (FSPS) *Coverage*

(CT:PER-682; 09-27-2012)
(Uniform State/USAID/BBG/Commerce/Foreign Service Corps-USDA)
(Applies to Foreign Service Employees)

a. A participant who was under *the* FSRDS Offset as of December 31, 1986, due to having been first hired by the U.S. Government in a civilian position after December 31, 1983, is subject to automatic *Foreign Service Pension System (*FSPS*)* coverage effective January 1, 1987.

b. A participant who was under FSRDS Offset as of December 31, 1986, due to having a break in Federal retirement coverage of a year or more, ending after December 31, 1983, who had less than 5 years of creditable civilian service (subject to Federal retirement coverage or *Social Security*) as of December 31, 1986, is subject to automatic FSPS coverage effective January 1, 1987.

c. An individual who becomes *employed* after December 31, 1986, without prior Federal civilian service, is subject to automatic FSPS coverage as of the date he or she becomes *an employee*.

d. A former employee who becomes a participant after December 31, 1986, without a break in service of *4* calendar days or more ending after December 31, 1986, who has 5 or more years of civilian service as of December 31, 1986, is *excluded* from automatic FSPS coverage.

e. A former employee who becomes a participant after December 31, 1986, following a break in service of *4* calendar days or more ending after December 31, 1986:

   (1) Who has 5 or more years of *creditable* civilian service (subject to Federal retirement coverage or *Social Security*) as of December 31, 1986*;* or

   (2) Who has 5 or more years of *creditable* civilian service (subject to Federal retirement coverage or *Social Security*) as of the break in service described above, including at least *1* day of *civilian service before January 1, 1984, and including at least 1 day of* coverage under CSRS, CSRS Offset, FSRDS, or FSRDS Offset, is *excluded* from automatic FSPS coverage.

3 FAM 6125 ELECTIONS OF FOREIGN SERVICE PENSION SYSTEM (FSPS) COVERAGE

3 FAM 6125.1 Available Elections

3 FAM 6125.1-1 Individuals Subject to *the* Foreign Service Retirement and Disability System (FSRDS) on June 30, 1987

(CT:PER-682; 09-27-2012)
(Uniform State/USAID/BBG/Commerce/Foreign Service Corps-USDA)
(Applies to Foreign Service Employees)

An employee who, on June 30, 1987, was covered under the Foreign Service Retirement and Disability System (FSRDS) *under* section 803 of the Foreign Service Act, *could* elect to become subject to *the Foreign Service Pension System (*FSPS*).* An election under this *section* may not be made before July 1, 1987, or after December 31, 1987.

3 FAM 6125.1-2 Eligible Foreign Service Members Who Are Reemployed

(CT:PER-682; 09-27-2012)
(Uniform State/USAID/BBG/Commerce/Foreign Service Corps-USDA)
(Applies to Foreign Service Employees)

A former eligible Foreign Service member who, after June 30, 1987, becomes re-employed after a break in service of 4 calendar days or more and subject to *the* FSRDS or FSRDS Offset may elect, during the 6-month period beginning on the date the member becomes subject to FSRDS or FSRDS Offset, to become subject to *the Foreign Service Pension System (*FSPS*)*.

3 FAM 6125.1-3 Eligible Foreign Service Members Who Transferred or Converted to a Career Foreign Service Appointment

(CT:PER-682; 09-27-2012)
(Uniform State/USAID/BBG/Commerce/Foreign Service Corps-USDA)
(Applies to Foreign Service Employees)

Eligible Foreign Service members who transferred or converted to a career Foreign Service appointment, if the previous position was covered by CSRS or CSRS Offset and the new position is covered by *the* FSRDS or FSRDS Offset*,* may elect within 6 months of the date of conversion or transfer to a career Foreign Service position, to become subject to *the Foreign Service Pension System (*FSPS*)*.

3 FAM 6125.1-4 Eligible Foreign Service Members, Who Receive Appointments as Senior Officials

(CT:PER-682; 09-27-2012)
(Uniform State/USAID/BBG/Commerce/Foreign Service Corps-USDA)

(Applies to Foreign Service Employees)

Eligible Foreign Service members who receive appointments as senior officials subject to mandatory *Social Security* coverage (FSRDS Offset), may elect, within 6 months of the senior official appointment, to become subject to *the Foreign Service Pension System (*FSPS*)*.

3 FAM 6125.1-5 1998 Open Enrollment Elections

(CT:PER-682; 09-27-2012)
(Uniform State/USAID/BBG/Commerce/Foreign Service Corps-USDA)
(Applies to Foreign Service Employees)

An employee who, on October 31, 1998, was covered under the Foreign Service Retirement and Disability System (FSRDS) or the Foreign Service Retirement and Disability System Offset, *could* elect to become subject to the Foreign Service Pension System (FSPS). An election under this paragraph may not be made before November 1, 1998, or after April 30, 1999.

3 FAM 6125.2 Effective Date

(CT:PER-682; 09-27-2012)
(Uniform State/USAID/BBG/Commerce/Foreign Service Corps-USDA)
(Applies to Foreign Service Employees)

An election made under this section is effective with the first pay period beginning after the date of the election and any required supporting documentation is received by the employing agency.

3 FAM 6125.3 Irrevocable Election

(CT:PER-682; 09-27-2012)
(Uniform State/USAID/BBG/Commerce/Foreign Service Corps-USDA)
(Applies to Foreign Service Employees)

An FSPS election becomes irrevocable on the date that it becomes effective.

3 FAM 6126 CONDITIONS FOR MAKING ELECTIONS

3 FAM 6126.1 Former Spouse

(CT:PER-682; 09-27-2012)
(Uniform State/USAID/BBG/Commerce/Foreign Service Corps-USDA)
(Applies to Foreign Service Employees)

An election under 3 FAM 6125 may not become effective unless the election is made with the written consent of any former spouse(s) entitled to benefits under the Foreign Service Act, any qualifying court order, or spousal agreement. This section does not apply with respect to a former spouse who has ceased to be entitled to benefits because of remarriage before age 55.

3 FAM 6126.2 Electing *Foreign Service Pension System (*FSPS*)* Coverage

(CT:PER-682; 09-27-2012)
(Uniform State/USAID/BBG/Commerce/Foreign Service Corps-USDA)
(Applies to Foreign Service Employees)

a. To elect *Foreign Service Pension System (*FSPS*)* coverage, an individual must submit a completed *Form JF-63,* Election of Coverage*,* and any additional documentation that may be required under 3 FAM 6126.1 (relating to the former spouse consent requirement) to the employing agency no later than the close of business on the last day of the applicable time period.

b. Any writing signed by the individual and filed with the employing agency may be treated as an election for the purpose of establishing the date of the election of FSPS coverage if the individual intends that document to be an election, but the individual *must complete the form. If* the individual dies after filing the election but before completing the *Form* JF-63, the survivor must submit a completed *Form* JF-63 to confirm any such election.

3 FAM 6126.3 Agency Responsibilities

(CT:PER-682; 09-27-2012)
(Uniform State/USAID/BBG/Commerce/Foreign Service Corps-USDA)
(Applies to Foreign Service Employees)

a. Employing agencies must determine whether individuals are eligible to elect *Foreign Service Pension System (*FSPS*)* coverage.

b. When individuals are eligible to elect FSPS coverage, employing agencies are required to timely provide eligible individuals with appropriate notice of that individual's right to make an election.

3 FAM 6126.4 Belated Elections and/or Administrative Errors

(CT:PER-682; 09-27-2012)
(Uniform State/USAID/BBG/Commerce/Foreign Service Corps-USDA)
(Applies to Foreign Service Employees)

a. The employing agency may accept a belated election of *Foreign Service Pension System (*FSPS*)* coverage if it determines that:

   (1) The employing agency did not provide adequate notice to the individual in a timely manner; or

   (2) The employee was unable, for cause beyond his or her control, to elect FSPS coverage within the prescribed time limit.

b. *If the Office of Retirement (*HR/RET*)* determines that an individual was erroneously covered by FSPS and would have had an opportunity to elect FSPS coverage*, he or she* will remain covered by FSPS, unless the individual declines in writing to be covered *under* FSPS*, provided*:

   (1) There is no former spouse qualified for benefits who has withheld consent to an election of FSPS coverage; and

   (2) The individual declines in writing to be covered by FSPS.

3 FAM 6126.5 Effect of an Election of FSPS Coverage

(CT:PER-682; 09-27-2012)
(Uniform State/USAID/BBG/Commerce/Foreign Service Corps-USDA)
(Applies to Foreign Service Employees)

a. A participant who elects *Foreign Service Pension System (*FSPS*)* coverage, who has 5 or more years of civilian service, before any service subject to FSPS, FERS, FSRDS Offset, or CSRS Offset, *must* have his or her annuity calculated under FSRDS rules for the service prior to the service covered by FSPS, FERS, FSRDS Offset, or CSRS Offset*,* and his or her annuity calculated under FSPS rules for the service on or after the effective date of service covered by FSPS, FERS, FSRDS Offset, or CSRS Offset.

b. A participant who elects FSPS coverage, who has less than 5 years of civilian service, before any service subject to FSPS, FERS, FSRDS Offset, or CSRS Offset, *must* have all of his or her annuity calculated under FSPS rules.

3 FAM 6127 THROUGH 6129 UNASSIGNED